IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition No. 8965 of 2005

1. Vilas Ganpati Patil
since deceased through
L.Rs and ors. ..Petitioners

vs.

Nivrutti Tukaram Patil
and others ..Respondents

Shri S.R.Ganbavate for petitioners.

**CORAM: S.B.MHASE J.**
**14th March, 2006**

**P.C.**

1. Heard the learned Counsel.

2. The order dated 18th January, 2005 passed by the learned III Joint Civil Judge, Sr.Dn., Kolhapur on application below Exh.42 in Reg.Civil Suit No.459 of 1998 is under challenge. By the said application below Exh.42 respondent has sought permission to present the counter claim and after hearing the counter claim is taken on record. The petitioner/original plaintiff was permtited to file the written statement to the counter claim. The said order is challenged by the petitioner relying upon rule 6-C of Order 8 of the code of Civil Procedure. Presently the counter claim is taken on record and the

plaintiff/petitioner is called upon to file the written statement. Stage as contemplated under Rule 6-C is yet not matured. At any time before the issues are settled in the suit the petitioner may make an application under clause 6-C. The petitionis misconceived. The same is, therefore, rejected.

**(S.B.MHASE J.)**